ATTACHMENT I

FROM : J. H. Craddock - St. Louis B3NJ 4-4764

DATE : November 29, 1978

SUBJECT : PCB EXEMPTION NOTICE

REFERENCE :

TO :
C. F. Callis - B2SA
H. C. Godt - T1B
R. L. Liss - B3NJ
R. S. Nelson - B3NJ

cc J. R. Condray - B3NJ
W. R. Corey - D1K
J. W. Hirzy - B3NC
J. S. Metcalf - B2NK
W. B. Papageorge - G4WA
J. E. Smith - B3NA
J. C. Weber - B2SK
D. Wood - B2SD

I have discussed the possibility of having PCB contamination levels of 50 ppm or higher in MIC products with several of you, particularly:

1. Plasticizers Division - Benzyl Chloride — John Smith, Bill Hirzy, Henry Godt, Wink Corey, Ray Liss

2. D&P Division - Chlorobenzene/Chlorophenols — Joe Metcalf, Henry Godt, Ray Liss, Wink Corey

3. SCD - Miscellaneous Products — Cole Weber, Dave Wood

There is no reason to believe that this level (>50 ppm) of PCB contamination would be present in any MIC products based upon knowledge and judgement of the chemistry involved or hard data.

Plasticizers Division has no data indicating PCB contamination of benzyl chloride and related products nor any suspicions thereof.

D&P has analytical data for chlorophenols, pentachlorophenol, TCC and Santophen 1. All PCB levels were less than 1 ppm in samples of these products, except for one sample at Newport which was 14 ppm. Chloroanilines have not been tested but based upon the chemistry involved (starting with MCI chlorobenzene), there is no technical reason to suspect PCBs in the chloroanilines at these levels.

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SCD says they have no problem with PCB impurities in any of their current products.

Wink Corey reiterated his previous discussions with Bill Papageorge re possible PCB impurities in chlorobenzenes. Since any low PCB levels are only found in the still bottoms residues and these do not appear sufficient to warrant MCI seeking an exemption, we believe this adds to the consideration of MIC downstream products from chlorobenzene and our judgement (in the absence of hard data) that we do not have a problem.

Based upon this information there is no need for MIC to seek an interim PCB exemption for our products.

Dave Wood is working on another aspect - "authorization" to have >50 ppm in heat transfer fluids (i.e., for continued use of systems contaminated with residual PCBs). According to his conversations with EPA legal council, this is a separate and distinct issue from the subject exemptions and is what Monsanto should seek.

Wood will continue to follow this area.

J. H. Craddock

jb

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mined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 1, 1978, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 1, 1978, part 180, subpart C, section 180.337 is amended by adding a tolerance for residues of oxytetracycline on peaches at 0.1 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: October 25, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart C section 180.337 is amended by adding the following new paragraph at the end of the section to read as follows:

§ 180.337 Oxytetracycline; tolerances for residues.

* * * * *

A tolerance of 0.1 part per million is established for residues of the pesticide oxytetracycline in or on the raw agricultural commodity peaches.

[FR Doc. 78-30790 Filed 10-31-78; 8:45 am]

[6560-01-M]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 998-3]

PART 750—PROCEDURES FOR RULEMAKING UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

Interim Procedural Rules for Polychlorinated Biphenyls (PCB's) Ban Exemption

AGENCY: Environmental Protection Agency.

ACTION: Procedures for filing and processing certain PCB exemption petitions under section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA).

SUMMARY: Section 6(e)(3)(B) of TSCA authorizes the Administrator to grant, by rule, exemptions to the bans on the manufacturing, processing, and distribution in commerce of PCB's established pursuant to section 6(e)(3)(A) of TSCA. Since the PCB manufacturing ban will become effective by regulation in early 1979, EPA wishes to inform affected parties now of the procedures which will be followed for the filing and processing of petitions for exemptions from the PCB manufacturing ban imposed by section 6(e)(3)(A). As this notice is strictly procedural, notice and public comment are unnecessary, and it is effective November 1, 1978.

DATES: Petitions for exemption from the 1979 PCB manufacturing ban must be received by December 1, 1978. These procedures are effective on November 1, 1978.

ADDRESS: Send petitions for exemptions to Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch. Comments on these procedures may be sent to the same address.

FOR FURTHER INFORMATION CONTACT:

John W. Lyon, Office of General Counsel (A-132), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0870.

SUPPLEMENTARY INFORMATION: On June 7, 1978, EPA published a proposed regulation (43 FR 24802) to implement the PCB manufacturing, processing, distribution in commerce, and use bans of section 6(e) of TSCA. EPA stated in the proposed rule at page 24807 that:

> The final rule will describe the requirements for filing [exemption] petitions and for the information to be provided in the petitions.

EPA expects to issue its final rule concerning the PCB bans about January 1, 1979. However, if the regulation is promulgated as proposed, certain manufacturing and importing activities will not be able to continue after the effective date of the regulation unless the Agency grants exemptions for them. These activities include, but are not necessarily limited to, the following: Manufacture of PCB small capacitors, manufacture of PCB equipment (including such items as fluorescent light ballasts, television sets, air conditioners, and microwave ovens), manufacture of chemical substances which contain 50 ppm or greater of PCB's (including pigments and precursors), and importation of PCB's. EPA is issuing these procedures at this time to allow individuals who may be affected by the 1979 manufacturing ban to file exemption petitions at once so that the Agency may act on these petitions as early as possible in 1979.

For purposes of determining whether to file a PCB exemption petition, affected parties should assume that the final regulation will be promulgated as proposed. Only persons affected by the 1979 PCB manufacturing ban should file petitions for exemptions at this time. Persons affected by the July 1, 1979, PCB processing and distribution bans should not file petitions for exemptions until issuance of the final PCB ban regulation. The Agency is delaying processing of petitions for exemptions from the July 1, 1979, bans because the scope of the final PCB ban regulation will determine which persons might wish to seek exemptions from those bans.

These procedural rules require individual submission of petitions by manufacturers affected by the 1979 ban. EPA is imposing this requirement because: (1) The number of such manufacturers is small; and (2) the Agency needs the identity and location of each source of PCB's.

All petitions for exemption from the 1979 PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA must be received by the Agency within 30 days after publication of this notice. This deadline is being imposed to permit consolidation of all rulemaking on 1979 PCB manufacturing exemptions and the holding of one informal hearing on all petitions covered by the consolidation. In the absence of consolidation, the Agency would not be able to complete action on individual petitions in early 1979.

In determining whether to grant a petition for exemption to the PCB ban, EPA will apply the standards enunciated in section 6(e)(3)(B) of TSCA. Section 6(e)(3)(B) reads in pertinent part as follows:

> * * * the Administrator may grant by rule such an exemption if the Administrator finds that—
>
> (i) An unreasonable risk of injury to health or environment would not result, and
>
> (ii) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl.

Although EPA is not issuing a form for petitions, petitions should include the information described in § 750.11(d) of the procedural rules.

Due to the need to grant or deny petitions on an expedited basis as early in 1979 as possible, the Administrator is delegating final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to these interim procedures to the Assistant Administrator for Toxic Substances. The Assistant Administrator will rule on petitions subsequent to opportunity for an informal hearing.

The procedural rules to be applicable to section 6(e) exemption proceed-

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ings are adapted from the TSCA section 6 procedural rules (40 CFR Part 750, 42 FR 61259, December 2, 1977).

The Agency is aware that many participants at the informal hearing on the proposed PCB ban regulation and at the PCB marking and disposal regulation hearing presented information directly applicable to a PCB exemption rulemaking. In order to expedite Agency action on exemption petitions, participants in the PCB exemption informal hearing are permitted and encouraged to designate testimony from prior Agency informal rulemaking hearings on PCB's under TSCA. The exemption hearing panel is specifically authorized by the procedural rules to reject repetitive testimony submitted earlier to the Agency at a TSCA PCB informal hearing.

These interim procedures may be revised prior to Agency action on PCB exemption petions which concern the July 1, 1979, PCB bans. Comments are therefore invited on any aspect of these exemption procedures.

These rules are issued under authority of section 6(e) of the Toxic Substances Control Act, 15 U.S.C. 2605(e).

Dated: October 25, 1978.

BARBARA BLUM,
Acting Administrator.

Title 40 of the code of Federal Regulations is amended by adding additional sections to part 750 as set forth below:

Sec.
750.10 Applicability.
750.11 Filing of petitions for exemption.
750.12 Consolidation of rulemakings.
750.13 Notice of proposed rulemaking.
750.14 Record.
750.15 Public comments.
750.16 Confidentiality
750.17 Subpenas.
750.18 Participation in informal hearing.
750.19 Conduct of informal hearing.
750.20 Cross-examination.
750.21 Final rule.

AUTHORITY: 15 U.S.C. 2605(e).

§ 750.10 Applicability.

Sections 750.10–750.21 apply to all rulemakings under authority of section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3)(B) with respect to petitions filed pursuant to § 750.11(a) of this part.

§ 750.11 Filing of petitions for exemption.

(a) *Who may file.* Any person seeking an exemption from the PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA may file a petition for exemption. Petitions must be submitted on an individual basis for each manufacturer or individual affected by the 1979 manufacturing ban.

(b) *Petition filing date.* All petitions for exemptions from the 1979 manufacturing ban under section 6(e)(3)(A) must be received by the hearing clerk by December 1, 1978, which is 30 days after publication of this notice.

(c) *Where to file.* All petitions shall be submitted to the following location: Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch.

(d) *Content of petition.* Each petition shall contain the following:

(1) Name, address and telephone number of petitioner.

(2) Description of PCB ban exemption requested, including items to be manufactured and nature of manufacturing process—such as smelting.

(3) Location(s) of manufacturing sites requiring exemption.

(4) Length of time requested for exemption (maximum length of exemption is 1 year).

(5) Amount of PCB chemical substance or PCB mixture (by pounds and/or volume) to be manufactured or used during requested exemption period and the manner of release of PCB's into the environment associated with such manufacture or use.

(6) The basis for the petitioner's contention that under section 6(e)(3)(B)(i) of TSCA "an unreasonable risk of injury to health or environment would not result" from the granting of his petition for exemption.

(7) The basis for the petitioner's contention that he meets the criterion of section 6(e)(3)(B)(ii) of TSCA concerning substitutes for PCB's.

(8) Quantification of the reasonably ascertainable economic consequences of denial of the petition for exemption from the 1979 manufacturing ban and an explanation of the manner of computation.

The Agency reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by § 750.13 of these rules.

§ 750.12 Consolidation of rulemakings.

All petitions received pursuant to § 750.11(a) will be consolidated into one rulemaking with one informal hearing held on all petitions.

§ 750.13 Notice of proposed rulemaking.

Rulemaking for PCB exemptions filed pursuant to § 750.11(a) shall begin with the publication of a notice of proposed rulemaking in the FEDERAL REGISTER. The notice shall state in summary form the required information described in § 750.11(d). Due to time constraints, the notice need not indicate what action EPA proposes to take on the exemption petitions. The notice shall also be subject to § 750.2(c) with the exceptions (1) that the clause "in addition to the material required under paragraph (b)" is eliminated; and (2) that § 750.2(c)(3) is changed to read:

The due date for public comments, which shall be (1) thirty days after publication of the notice of proposed rulemaking for main comments and (2) one week after the close of the informal hearing for reply comments.

§ 750.14 Record.

Section 750.3 shall be applicable with the exception that the words "§ 750.11(d)" are substituted for "§ 750.2(b)" in § 750.3(a) (1) and (2).

§ 750.15 Public comments.

Section 750.4 shall be applicable with the exception that the time period in § 750.4(b) is shortened to 1 week.

§ 750.16 Confidentiality.

The Agency encourages the submission of nonconfidential information by petitioners and commenters. The Agency does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commenter believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked "confidential" by the submitter. For the information claimed to be confidential, the Agency will list only the date and the name and address of the petitioner or commenter in the public file, noting that the petitioner or commenter has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a nonconfidential petition with a nonconfidential summary of the confidential information to be placed in the public file. Similarly, a commenter must supply a nonconfidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in part 2, subpart B of this title.

§ 750.17 Subpoenas.

Section 750.5 shall be applicable.

§ 750.18 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA shall file a written request to so participate with the record and hearing clerk which shall be received no later than 7 days prior to the scheduled start of the hearing. The hearing shall begin 7 days after the close of the 30-day comment period or as soon thereafter as practicable.

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(b) With the exception of the first sentence in § 750.6(a), § 750.6 shall be applicable with the further exception that the time period in § 750.6(b) is shortened to no later than 3 days prior to the start of the hearing.

§ 750.19 Conduct of informal hearing.

Section 750.7 shall be applicable with the addition of the following sentence at the end of § 750.7(c):

Participants shall be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCB's under TSCA. The hearing panel may reject repetative testimony previously presented at such hearings.

§ 750.20 Cross-examination.

Section 750.8 shall be applicable.

§ 750.21 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, the Agency shall issue a final rule. The Agency shall also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearing record) which has not previously been listed in a FEDERAL REGISTER document, and

(2) The effective date of the rule.

(b) The Administrator hereby delegates final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to § 750.11 of these rules to the Assistant Administrator for Toxic Substances. The Assistant Administrator shall act on such petitions subsequent to opportunity for an informal hearing pursuant to these rules.

(c) In determining whether to grant an exemption to the PCB ban, the Agency shall apply the two standards enunciated in section 6(e)(3)(B) of TSCA.

[FR Doc. 78-30788 Filed 10-31-78; 8:45 am]

[6820-23-M]

Title 41—Public Contracts and Property Management

CHAPTER 5B—PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION

[PBS P 2800.6A CHGE 2]

PART 5B-3—PROCUREMENT BY NEGOTIATION

Small Purchase Procedures; Correction

AGENCY: General Services Administration.

ACTION. Final rule; correction.

SUMMARY: This document corrects an error in a previously published regulation in the FEDERAL REGISTER regarding dollar limitations for simplified small purchase procedures set forth in Pub. L. 93-356. This regulation is keyed to the earlier document and the error is clearly identified for correction.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory Siracusa, Procurement Policy Review Staff, Office of Program Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405. 202-566-1954.

In FR Doc. 78-23503 appearing at page 37197 in the FEDERAL REGISTER of Tuesday, August 22, 1978, the following changes should be made:

1. On page 37193, § 5B-3.600-70(a), add: (2) Public exigency precludes the use of FSS services.

2. On page 37193, § 5B-3.600-70(b) is corrected in the ninth line to read, "more than $2,000."

3. On page 37198, § 5B-3.603-1(a)(2)(iii)(B) is corrected in the second line to read, "repair over $2,000."

Dated: October 6, 1978.

JAMES B. SHEA, JR.,
Commissioner, PBS.

[FR Doc. 78-30838 Filed 10-31-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1262, Amdt. No. 4]

PART 1033—CAR SERVICE

North Stratford Railroad Corp. Authorized To Operate Over Certain Tracks Owned by the State of New Hampshire

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order. (Amendment No. 4 to service order No. 1262).

SUMMARY: Service order No. 1262 authorizes the North Stratford Railroad Corp. to operate a line of railroad between North Stratford, N.H. and Beecher Falls, Vt., owned by the State of New Hampshire. Resumption of operation over this line restores rail service to shippers affected by its abandonment by the Maine Central, its former owner. Amendment No. 4 to service order No. 1262 extends for 1 month the emergency authority granted to the North Stratford Railroad for operation of this line. Service order No. 1262 is published in full in volume 42 of the FEDERAL REGISTER at page 16780.

DATES: Effective 11:59 p.m., October 31, 1978. Expires 11:59 p.m., November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone 202-275-7840, Telex 89-2742.

Decided: October 25, 1978.

Upon further consideration of service order No. 1262 (42 FR 16780, 43637, and 57317, and 43 FR 19047) and good cause appearing therefor:

It is ordered, That § 1033.1262 *North Stratford Railroad Corp. authorized to operate over certain tracks owned by the State of New Hampshire*, service order No. 1262 is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 31, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-30904 Filed 10-31-78; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY INTERIM PROCEDURES FOR PETITIONING FOR EXEMPTION FROM PCB BAN

43 FR 50905, November 1, 1978

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

[FRL 998-3]

PART 750—PROCEDURES FOR RULEMAKING UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

Interim Procedural Rules for Polychlorinated Biphenyls (PCB's) Ban Exemption

AGENCY: Environmental Protection Agency.

ACTION: Procedures for filing and processing certain PCB exemption petitions under section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA).

SUMMARY: Section 6(e)(3)(B) of TSCA authorizes the Administrator to grant, by rule, exemptions to the bans on the manufacturing, processing, and distribution in commerce of PCB's established pursuant to section 6(e)(3)(A) of TSCA. Since the PCB manufacturing ban will become effective by regulation in early 1979, EPA wishes to inform affected parties now of the procedures which will be followed for the filing and processing of petitions for exemptions from the PCB manufacturing ban imposed by section 6(e)(3)(A). As this notice is strictly procedural, notice and public comment are unnecessary, and it is effective November 1, 1978.

DATES: Petitions for exemption from the 1979 PCB manufacturing ban must be received by December 1, 1978. These procedures are effective on November 1, 1978.

ADDRESS: Send petitions for exemptions to Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch. Comments on these procedures may be sent to the same address.

FOR FURTHER INFORMATION CONTACT:

John W. Lyon, Office of General Counsel (A-132), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0870.

SUPPLEMENTARY INFORMATION: On June 7, 1978, EPA published a proposed regulation (43 FR 24802) to implement the PCB manufacturing, processing, distribution in commerce, and use bans of section 6(e) of TSCA. EPA stated in the proposed rule at page 24807 that:

> The final rule will describe the requirements for filing (exemption) petitions and for the information to be provided in the petitions.

EPA expects to issue its final rule concerning the PCB bans about January 1, 1979. However, if the regulation is promulgated as proposed, certain manufacturing and importing activities will not be able to continue after the effective date of the regulation unless the Agency grants exemptions for them. These activities include, but are not necessarily limited to, the following: Manufacture of PCB small capacitors, manufacture of PCB equipment (including such items as fluorescent light ballasts, television sets, air conditioners, and microwave ovens), manufacture of chemical substances which contain 50 ppm or greater of PCB's (including pigments and precursors), and importation of PCB's. EPA is issuing these procedures at this time to allow individuals who may be affected by the 1979 manufacturing ban to file exemption petitions at once so that the Agency may act on these petitions as early as possible in 1979.

For purposes of determining whether to file a PCB exemption petition, affected parties should assume that the final regulation will be promulgated as proposed. Only persons affected by the 1979 PCB manufacturing ban should file petitions for exemptions at this time. Persons affected by the July 1, 1979, PCB processing and distribution bans should not file petitions for exemptions until issuance of the final PCB ban regulation. The Agency is delaying processing of petitions for exemptions from the July 1, 1979, bans because the scope of the final PCB ban regulation will determine which persons might wish to seek exemptions from those bans.

These procedural rules require individual submission of petitions by manufacturers affected by the 1979 ban. EPA is imposing this requirement because: (1) The number of such manufacturers is small; and (2) the Agency needs the identity and location of each source of PCB's.

All petitions for exemption from the 1979 PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA must be received by the Agency within 30 days after publication of this notice. This deadline is being imposed to permit consolidation of all rulemaking on 1979 PCB manufacturing exemptions and the holding of one informal hearing on all petitions covered by the consolidation. In the absence of consolidation, the Agency would not be able to complete action on individual petitions in early 1979.

In determining whether to grant a petition for exemption to the PCB ban, EPA will apply the standards enunciated in section 6(e)(3)(B) of TSCA. Section 6(e)(3)(B) reads in pertinent part as follows:

> • • • the Administrator may grant by rule such an exemption if the Administrator finds that
>
> (i) An unreasonable risk of injury to health or environment would not result, and
>
> (ii) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl.

Although EPA is not issuing a form for petitions, petitions should include the information described in § 750.11(d) of the procedural rules.

Due to the need to grant or deny petitions on an expedited basis as early in 1979 as possible, the Administrator is delegating final Agency authority to grant or deny petitions under section 6(e)(3)(B) of TSCA submitted pursuant to these interim procedures to the Assistant Administrator for Toxic Substances. The Assistant Administrator will rule on petitions subsequent to opportunity for an informal hearing.

The procedural rules to be applicable to section 6(e) exemption proceedings are adapted from the TSCA section 6 procedural rules (40 CFR Part 750, 42 FR 61259, December 2, 1977).

The Agency is aware that many participants at the informal hearing on the proposed PCB ban regulation and at the PCB marking and disposal regulation hearing presented information directly applicable to a PCB exemption rulemaking. In order to expedite Agency action on exemption petitions, participants in the PCB exemption informal hearing are permitted and encouraged to designate testimony from prior Agency informal rulemaking hearings on PCB's under TSCA. The exemption hearing panel is specifically authorized by the procedural rules to reject repetitive testimony submitted earlier to the Agency at a TSCA PCB informal hearing.

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These interim procedures may be revised prior to Agency action on PCB exemption petions which concern the July 1, 1979, PCB bans. Comments are therefore invited on any aspect of these exemption procedures.

These rules are issued under authority of section 6(e) of the Toxic Substances Control Act, 15 U.S.C. 2605(e).

Dated: October 25, 1978.

BARBARA BLUM,
Acting Administrator.

Title 40 of the code of Federal Regulations is amended by adding additional sections to part 750 as set forth below:

Sec.
750.10 Applicability.
750.11 Filing of petitions for exemption.
750.12 Consolidation of rulemakings.
750.13 Notice of proposed rulemaking.
750.14 Record.
750.15 Public comments.
750.16 Confidentiality
750.17 Subpenas.
750.18 Participation in informal hearing.
750.19 Conduct of informal hearing.
750.20 Cross-examination.
750.21 Final rule.

AUTHORITY: 15 U.S.C. 2605(e).

§ 750.10 Applicability.

Sections 750.10-750.21 apply to all rulemakings under authority of section 6(e)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e)(3)(B) with respect to petitions filed pursuant to § 750.11(a) of this part.

§ 750.11 Filing of petitions for exemption.

(a) *Who may file.* Any person seeking an exemption from the PCB manufacturing ban imposed by section 6(e)(3)(A) of TSCA may file a petition for exemption. Petitions must be submitted on an individual basis for each manufacturer or individual affected by the 1979 manufacturing ban.

(b) *Petition filing date.* All petitions for exemptions from the 1979 manufacturing ban under section 6(e)(3)(A) must be received by the hearing clerk by December 1, 1978, which is 30 days after publication of this notice.

(c) *Where to file.* All petitions shall be submitted to the following location: Office of Toxic Substances (TS-794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, attention: Ms. Joni T. Repasch.

(d) *Content of petition.* Each petition shall contain the following:

(1) Name, address and telephone number of petitioner.

(2) Description of PCB ban exemption requested, including items to be manufactured and nature of manufacturing process—such as smelting.

(3) Location(s) of manufacturing sites requiring exemption.

(4) Length of time requested for exemption (maximum length of exemption is 1 year).

(5) Amount of PCB chemical substance or PCB mixture (by pounds and/or volume) to be manufactured or used during requested exemption period and the manner of release of PCB's into the environment associated with such manufacture or use.

(6) The basis for the petitioner's contention that under section 6(e)(3)(B)(i) of TSCA "an unreasonable risk of injury to health or environment would not result" from the granting of his petition for exemption.

(7) The basis for the petitioner's contention that he meets the criterion of section 6(e)(3)(B)(ii) of TSCA concerning substitutes for PCB's.

(8) Quantification of the reasonably ascertainable economic consequences of denial of the petition for exemption from the 1979 manufacturing ban and an explanation of the manner of computation.

The Agency reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by § 750.13 of these rules.

§ 750.12 Consolidation of rulesmakings.

All petitions received pursuant to § 750.11(a) will be consolidated into one rulemaking with one informal hearing held on all petitions.

§ 750.13 Notice of proposed rulemaking.

Rulemaking for PCB exemptions filed pursuant to § 750.11(a) shall begin with the publication of a notice of proposed rulemaking in the FEDERAL REGISTER. The notice shall state in summary form the required information described in § 750.11(d). Due to time constraints, the notice need not indicate what action EPA proposes to take on the exemption petitions. The notice shall also be subject to § 750.2(c) with the exceptions (1) that the clause "in addition to the material required under paragraph (b)" is eliminated; and (2) that § 750.2(c)(3) is changed to read:

The due date for public comments, which shall be (1) thirty days after publication of the notice of proposed rulemaking for main comments and (2) one week after the close of the informal hearing for reply comments.

§ 750.14 Record.

Section 750.3 shall be applicable with the exception that the words "§ 750.11(d)" are substituted for "§ 750.2(b)" in § 750.3(a) (1) and (2).

§ 750.15 Public comments.

Section 750.4 shall be applicable with the exception that the time period in § 750.4(b) is shortened to 1 week.

§ 750.16 Confidentiality.

The Agency encourages the submission of nonconfidential information by petitioners and commenters. The Agency does not wish to have unnecessary restrictions on access to the rulemaking record. However, if a petitioner or commenter believes that he can only state his position through the use of information claimed to be confidential, he may submit it. Such information must be separately submitted for the rulemaking record and marked "confidential" by the submitter. For the information claimed to be confidential, the Agency will list only the date and the name and address of the petitioner or commenter in the public file, noting that the petitioner or commenter has requested confidential treatment. The information claimed to be confidential will be placed in a confidential file. A petitioner must also file a nonconfidential petition with a nonconfidential summary of the confidential information to be placed in the public file. Similarly, a commenter must supply a nonconfidential summary of the information claimed to be confidential to be placed in the public file. Any information not marked as confidential will be placed in the public file. Information marked confidential will be treated in accordance with the procedures in part 2, subpart B of this title.

§ 750.17 Subpoenas.

Section 750.5 shall be applicable.

§ 750.18 Participation in informal hearing.

(a) Each person or organization desiring to participate in the informal hearing required by section 6(c)(2)(C) of TSCA shall file a written request to so participate with the record and hearing clerk which shall be received no later than 7 days prior to the scheduled start of the hearing. The hearing shall begin 7 days after the close of the 30-day comment period or as soon thereafter as practicable.

(b) With the exception of the first sentence in § 750.6(a), § 750.6 shall be applicable with the further exception that the time period in § 750.6(b) is shortened to no later than 3 days prior to the start of the hearing.

§ 750.19 Conduct of informal hearing.

Section 750.7 shall be applicable with the addition of the following sentence at the end of § 750.7(c):

Participants shall be allowed to designate testimony from prior EPA informal rulemaking hearings concerning PCB's under TSCA. The hearing panel may reject repetative testimony previously presented at such hearings.

§ 750.20 Cross-examination.

Section 750.8 shall be applicable.

§ 750.21 Final rule.

(a) As soon as feasible after the deadline for submittal of reply comments, the Agency shall issue a final rule. The Agency shall also publish at that time:

(1) A list of all material added to the record (other than public comments and material from the hearing record) which has not previously been listed in a FEDERAL REGISTER document, and

(2) The effective date of the rule.

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(b) The Administrator hereby delegates final Agency authority to grant or deny petitions under section e)(3)(B) of TSCA submitted pursuant to §750.11 of these rules to the Assisitant Administrator for Toxic Substances. The Assistant Administrator shall act on such petitions subsequent to opportunity for an informal hearing pursuant to these rules.

(c) In determining whether to grant an exemption to the PCB ban, the Agency shall apply the two standards enunciated in section 6(e)(3)(B) of TSCA.

MTB NOTICE OF ACTION ON APPLICATIONS FOR EXEMPTION FROM HAZARDOUS MATERIALS REGULATIONS

43 FR 51163, November 2, 1978

OFFICE OF HAZARDOUS MATERIALS REGULATION

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations 949 CFR part 107, Subpart B), notice is hereby given of the exemptions granted September 1978. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1 Motor vehicle, 2 Rail freight, 3 Cargo-vessel, 4 Cargo-only aircraft, 5 Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		RENEWALS		
2981-X	DOT-E 2981	Austin Powder Co., Cleveland, Ohio	49 CFR 173.64(a), 173.93(a)	To ship a certain class A or class B explosives in non-DOT specification polyethylene bag/fiberboard tube packagings. (Modes 1 and 2.)
3004-X	DOT-E 3004	Air Products and Chemical Co., Inc., Allentown, Pa.	49 CFR 173.302,175.3	To ship certain compressed gases in non-DOT-specification cylinders. (Modes 1, 2, 4, 5.)
3768-X	DOT-E 3768	Minerec Corp., Baltimore, Md.; PPG Industries, Inc., Pittsburgh, Pa.	49 CFR 173.119, 173.245,173.288	To ship certain certain flammable and corrosive liquids in DOT specification MC-304, MC-307 and MC-312 cargo tanks. (Mode 1.)
4554-X	DOT-E 4554	B. F. Goodrich Co., Cleveland, Ohio	49 CFR 172.101, 173.315(a) (1)	To ship liquefied ethylene in a non-DOT-specification cargo tank designed and constructed in accordance with section VIII of the ASME Code. (Mode 1.)
5248-P	DOT-E 5248	University of California, Livermore, Calif..	49 CFR 173.389(g), 175.3	To become a party to Exemption 5248. (See Application 5248-X.) (Modes 1, 2, 4, 5.)
5322 X	DOT-E 5322	San Diego Gas and Electric Co., San Diego, Calif.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in non-DOT specification cargo tanks designed and constructed in accordance with section VIII of the ASME Code. (Mode 1.)
5701-X	DOT-E 5701	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.268(a)(3)	To ship a certain oxidizer in a non-DOT-specification cargo tank made in compliance with DOT Specification MC-312 with certain exceptions. (Mode 1.)
5736-X	DOT-E 5736	El Paso Products Co., Bartlesville, Okla.	49 CFR 172.101, 173.314(c)	To ship a flammable gas in non-DOT-specification tank car tanks. (Modes 2, 3.)
6111-X	DOT-E 6111	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.315(a)	To ship a flammable gas in a non-DOT-specification cargo tank designed and constructed in accordance with section VIII of ASME Code. (Mode 1.)
6234-X	DOT-E 6234	HASA Chemicals, Inc., Saugus, Calif	49 CFR 173.154(a), 173.217	To become a party to Exemption 6234. (See Application No. 6234-X.) (Modes 1, 3.)
6305-X	DOT-E 6305	Ensign Bickford Co., Simsbury, Conn	49 CFR 173.113(a)(1)	To ship a certain class C explosive in DOT Specification 23(35 fiberboard boxes. (Moues 1, 2.)
6309-X	DOT-E 6309	General Latex and Chemical Corp., Dalton, Ga.	49 CFR 173.315(a)(1)	To ship certain nonpoisonous, nonflammable compressed gases in a non-DOT-specification steel portable tank. (Modes 1, 2)
6536-X	DOT-E 6536	Bay State Gas Co., Canton, Mass.; New Jersey Natural Gas Co., Asbury Park, N.J.; Public Service Electric & Gas Co., Newark, N.J.; Philadelphia Gas Works, Philadelphia, Pa.; SunOlin Chemical Co., Claymont, Del.	49 CFR 172.101, 173.315(a)	To ship certain flammable and nonflammable gases in a non-DOT-specification cargo tank designed and constructed in accordance with section VIII of the ASME Code. (Mode 1.)
6536-P	DOT-E 6563	Southern Connecticut Gas Co., Bridgeport, Conn.; Valley Gas Co., Cumberland, R.I.	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6536. (See Application No. 6536-X.) (Mode 1.)
6563-X	DOT-E 6563	Safety Laboratories, Inc., Miami, Fla	49 CFR 173.302(a) (1), 175.3	To ship certain non-liquefied, nonflammable compressed gases in a non-DOT-specification steel cylinder made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5.)
6563-P	DOT-E 6563	Penwal, Inc., Ashland, Mass	49 CFR 173.302(a) (1), 175.3	To become a party to Exemption 6563. (See Application No. 6563-X.) (Modes 1, 2, 3, 4, 5.)
6793-X	DOT-E 6793	Sea Containers, Inc., New York, N.Y.	49 CFR Part 173; 46 CFR 90.05-35, 98.35-3.	To ship certain hazardous materials in a non-DOT-specification portable tank. (Modes 1, 2, 3.)
6805-X	DOT-E 6805	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.301(d), 173.302(a)(3).	To ship a flammable compressed gas mixture in DOT Specification 3AAX steel cylinders. (Mode 1.)
6820-X	DOT-E 6820	Georgia-Pacific Corp., Montebello, Calif.	49 CFR 172.101, 173.217(a)	To ship a certain oxidizer in DOT Specification 12A and 12B fiberboard boxes. (Mode 1.)
6824-X	DOT-E 6824	Georgia-Pacific Corp., Los Angeles, Calif.	49 CFR 173.217(a)	To ship certain oxidizing materials in non-DOT polyethylene bottles/fiberboard box packaging. (Modes 1, 2, 3.)

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